

Approved: Meeting No. 08-14

Attest:

Bridget Donnell Newton  
Douglas A. Barber

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
February 3, 2014  
Meeting No. 04-14  
7:00 p.m.

#### **Executive Session Summary for January 27, 2014**

**Executive Session pursuant to the State Government Article of the Annotated Code of Maryland, Section 10-508(a)(7) to consult with counsel to obtain legal advice regarding the property at 1000 Westmore Avenue.**

The Mayor and Council met in Executive Session on Monday, January 27, 2014, at 6:00 p.m. in the Diamondback Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland.

Councilmember Onley made the motion to convene in Executive Session. The motion was seconded by Councilmember Moore and passed unanimously.

**Present:** Mayor Bridget Donnell Newton, Councilmember Beryl L. Feinberg, Councilmember Tom Moore, Councilmember Virginia Onley, and Councilmember Julie Palakovich Carr (via-telephone). Also present were City Manager Barbara Matthews, City Attorney Debra Daniel, City Clerk/Treasurer Doug Barber, Director of Public Works Craig Simoneau, and Director of Community Planning and Development Services Susan Swift.

The topic of discussion was the property at 1000 Westmore Avenue.

The Mayor and Council adjourned the Executive Session at 6:55 p.m.

#### **Mayor and Council Meeting – February 3, 2014**

##### **Present:**

Mayor Bridget Donnell Newton, Councilmember Beryl L. Feinberg, Councilmember Tom Moore, Councilmember Virginia Onley, and Councilmember Julie Palakovich Carr.

##### **Staff Present:**

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

**1. Convene**

The Mayor and Council convened in a regular meeting at 7:00 p.m. on Monday, February 3, 2014, in the Mayor and Council Chambers, City Hall, 111 Maryland Avenue, Rockville, Maryland.

**2. Pledge of Allegiance**

Mayor Newton led the Pledge of Allegiance.

**3. Agenda Review**

City Clerk Barber noted there were no corrections to the Agenda.

**4. City Manager's Report**

City Manager Matthews reported on the following:

- The Horizon Hill Stormwater Management Facility Community Meeting was held on Thursday, January 30, 2014. She thanked Director of Public Works Craig Simoneau and Acting Recreation and Parks Director Chris Henry and their respective staffs for their efforts in addressing the community's concerns during the meeting.
- The Board of Supervisors of Elections will host the second 2013 Post-Election Wrap-Up Session on Thursday, February 6, 2014. The session will allow the Board to receive feedback on the 2013 City Election.
- The Washington Metropolitan Area Transit Authority is seeking feedback on its proposed FY 2015 Budget and fare changes, as well as the transit system's Capital Improvement Program. Comments can be submitted through an online survey at [www.wmata.com/budgetsurvey](http://www.wmata.com/budgetsurvey) until Tuesday, February 11, 2014, at 5:00 p.m.
- The Rockville Swing Band, with Director John Saint Amour, will perform "Swing! Swing! Swing!" on Sunday, February 9, 2014, from 3:00 p.m. until 4:00 p.m. at the F. Scott Fitzgerald Theatre.
- The City of Rockville is organizing several youth and adult sports leagues for the spring season. For more information about the leagues and how to register, call 240-314-8620 or go to [www.rockvillemd.gov/recreation/sports](http://www.rockvillemd.gov/recreation/sports).
- The Rockville staff is seeking Rockville and Montgomery County residents who have served in the United States military to participate in planned ceremonies to honor our nation's veterans on Memorial Day (Monday, May 26, 2014) and Veteran's Day (Monday, November 11, 2014). For more information, contact Rockville's Event Specialist Amanda Knox at 240-314-8604.

## **5. Appointments/Reappointments and Announcements of Vacancies**

Mayor Newton announced that there are vacancies on the following Boards and/or Commissions: Cultural Arts Commission, Historic District Commission, Recreation and Parks Foundation, Inc., Rockville Housing Enterprises, Rockville Sister City Corporation, Senior Citizens Commission, Traffic and Transportation Commission, Environment Commission, Human Rights Commission, Landlord Tenant Affairs Commission. Human Services Advisory Commission, Personnel Appeals Board, Rockville Economic Development, Inc. REDI), and the Ethics Commission.

## **6. Proclamation – Black History Month (February 2014)**

Councilmember Onley read the proclamation. The Mayor and Council presented the proclamation to Dr. Ruby Reese Moone, a Rockville resident and a lifelong civil rights activist.

**Motion:** to approve the proclamation proclaiming the month of February 2014 to be Black History Month in the City of Rockville.

Moved by Councilmember Onley, seconded by Councilmember Palakovich Carr, and passed unanimously.

## **7. Community Forum (formerly known as Citizen's Forum)**

<i>Citizen</i>	<i>Issue</i>
Maynard Moore	Inclusionary Sports
Medha Reddy, along with members of the Maryland Legislative Youth Council	Lowering the Voting Age

## **8. Mayor and Council's Response to Community Forum and Announcements**

Councilmember Moore thanked all for attending the meeting. Councilmember Moore also thanked the Maryland Legislative Youth Council for bringing forward their request to have the voting age lowered in the City of Rockville.

At the request of the President of the Beall Elementary Parent Teacher Association (PTA), Mayor Newton announced that this is the week to advocate for school construction funding. Mayor Newton noted that, if you will have a student in school in 2015-2020, this is the time to advocate for funding.

## **9. Mayor and Council Reports**

Councilmember Feinberg echoed comments given by City Manager Matthews on the Horizon Hill Stormwater Management Community Meeting held on Thursday, January 30, 2014, stating that the meeting was very informative. Councilmember Feinberg thanked Acting Director of Recreation and Parks Chris Henry and Director of Public Works Craig Simoneau for their work on the project. Councilmember Feinberg also commented on the Mayor and Council Retreat held on Friday, January 31, 2014 and Saturday, February 1, 2014. She stated that it was an excellent experience as it allowed the Mayor and Council to further their working relationship by collaborating together and communicating effectively.

Councilmember Palakovich Carr thanked Mayor Newton for taking the lead in organizing the retreat as it was a very productive worksession for the Mayor and Council. She also thanked her colleagues for their patience with her as she missed the last few meetings due to medical reasons.

Mayor Newton thanked her fellow colleagues along with City Manager Matthews and Deputy City Manager Jenny Kimball, for their attendance and participation in the Retreat. Mayor Newton stated it was a very productive time, and she looks forward to working together with everyone.

Mayor Newton noted that she was a guest at the Asian American Chamber of Commerce meeting held on Tuesday, January 28, 2014. She looks forward to having the different Chambers in the City working together. Mayor Newton closed by reporting to the Council that she had made her first visit to a 4<sup>th</sup> grade classroom in Rockville to inform the students of the Maryland Municipal League's "If I Were Mayor" essay contest.

**10. Consent Agenda – Approval of Response to Montgomery County Department of Environmental Protection (MCDEP) Request for Comments to the On-Site Systems Exception Application Filed by Interstate Westmore, LLC, to Allow the Use of an Interim Permit Well and Septic System to Serve 1000 Westmore Avenue**

City Attorney Daniel advised the Mayor and Council of a minor change made to the proposed letter prior to the motion being made.

**Motion:** to authorize the City Manager to send a response on behalf of the Mayor and Council to the Montgomery County Department of Environmental Protection (MCDEP) on its request for comments from the City of Rockville to the on-site systems exception application filed by Interstate Westmore, LLC, and to allow the use of an interim permit well and septic system to serve 1000 Westmore Avenue.

Moved by Councilmember Moore, seconded by Councilmember Feinberg, and passed with Mayor Newton, Councilmember Feinberg, Councilmember Moore, and Councilmember Onley voting in favor of and Councilmember Palakovich Carr voting against (4-1).

**11. Presentation of Finalists' Art Proposals for the Rockville City Police Station, located at 2 West Montgomery Avenue, and Recommendations from the Artist Nomination Committee and the Cultural Arts Commission**

Acting Director of Recreation and Parks Chris Henry provided the staff report on the agenda item. Ms. Henry noted that the Rockville City Police Station is a designated Art in Public Architecture Project with a budget of \$75,000. Ms. Henry thanked the Cultural Arts Commission and the Historic District Commission for their involvement in this public art project.

As part of her overview of the project, Acting Director Henry noted the following key points:

- In January 2011, a Call for Entries was distributed to local, regional and national artists for the Rockville Police Station. The proposals were presented to the Mayor and Council on September 26, 2011. The Mayor and Council rejected the finalists' proposals and directed staff to prepare a second call for entries.
- In April 2013, a second Call for Entries was distributed

- 23 interested artists submitted digital images of previous public art projects and biographical information for consideration by the Artist Nomination Committee

Ms. Henry noted that the Artist Nomination Committee consisted of John Moser and Abe Brown, representing the Cultural Arts Commission; Rob Achtmeyer, representing the Historic District Commission; Lieutenant Eric Over, representing the Rockville City Police Department; Edward Masek of WGM Architects, who designed the facility; and June Linowitz, an art professional. The Committee reviewed the submitted materials and selected four finalists.

Ken Lector, Cultural Arts Commissioner, addressed the Mayor and Council and described in detail the four finalist proposals:

- "The Rockville Tree" by Roberto Delgado and Yamilette Duarte
- "Untitled" by David Hess
- "Shields" by Charlotte Less
- "A Home for All Seasons" by Joy Wulke

Mr. Lector noted that descriptions of the art work were provided by the artist and not the Committee.

John Moser, Chair of the Cultural Arts Commission, addressed the Mayor and Council and reviewed the process the Commission followed in selecting the four finalists. Chair Moser noted that the Artist Nomination Committee unanimously recommended that Roberto Delgado and Yamilette Duarte of Los Angeles, California be awarded the \$75,000 art commission for their ceramic tile mural "The Rockville Tree." The Cultural Arts Commission reviewed the art proposals and concurred with the Artist Nomination Committee's recommendation. Chair Moser noted that they had received over 50 comments from the public on the proposed art project for the Rockville Police Station.

Chair Moser provided the following options for the Mayor and Council to consider:

- Approve the award of the art commission to Roberto Delgado and Yamilette Durate as recommended by the Cultural Arts Commission and the Artist Nomination Committee
- Instruct the Cultural Arts Commission and City staff to work with the recommended artists to make modifications to their art proposal
- Approve the award of the art commission to one of the other finalists. This option would require approval from the Maryland Historical Trust and the Historic District Commission to install the selected proposal on the northeast façade of the new Police Station building
- Reject the four finalists' proposals and direct staff and the Cultural Arts Commission to prepare a third call for entries to be distributed to local, regional and national artists
- Reject the four finalists' proposals and direct staff to retain the \$75,000 designated for the Police Station project in the Art in Public Architecture Fund for future use on another appropriate City project

Chair Moser, along with Betty Wisda, Arts Program Supervisor, and staff liaison to the Cultural Arts Commission, responded to questions posed by the Mayor and Council concerning the proposed pieces of art.

Councilmember Palakovich Carr requested clarification on the selection and evaluation process by which the four finalists were selected. Mr. Moser clarified the process used for the selection process by the Commission.

Councilmember Moore asked whether what was being presented to the Mayor and Council is an actual replica of what would be seen on the building. Mr. Moser clarified that what is being shown is what the artist plans for the project. Mr. Moser noted that modifications could be made by the artist; however, any changes would need to be approved.

Councilmember Feinberg asked the Mayor and Council to consider keeping the funding and redirecting it to another City project.

Councilmember Onley stated that she had been through this process previously and that she did not see the connection to police/public safety in the proposed art selections. She stated she supported the comments made by Councilmember Feinberg.

Councilmember Moore asked Mr. Moser for his opinion on how he sees the proposed artwork tying into the police and public safety theme. Mr. Moser advised that art is in the eye of the beholder. Ms. Wisda offered some insight with regard to the comments of the Commission on how the recommended artwork represented public service and public safety.

Councilmember Moore stated that the Rockville Police Department is a new, major public building in the City, and may be the last opportunity that the City has for a while to make a public art statement.

Councilmember Palakovich Carr stated her support for following the recommendation of the Artist Nomination Committee and the Cultural Arts Commission.

Mayor Newton outlined her reasons for supporting Option # 5 to reject the four finalists' proposals and to direct staff to retain the \$75,000 designated for the Police Station project in the Art in Public Architecture Fund for future use on another appropriate City project, as proposed by Councilmember Feinberg.

**Motion:** to reject the four finalists' proposals and to direct staff to retain the \$75,000 designated for the Police Station project in the Art in Public Architecture Fund for future use on another appropriate City project.

Councilmember Moore expressed his concerns about not picking any of the four art proposals and about reallocating the funding away from the Police Department Headquarters.

Councilmember Feinberg stated that the four proposals were not meritorious for the Police Department Headquarters.

Councilmember Moore reiterated his concerns about not having public art as part of the Police Department Headquarters project.

Moved by Councilmember Feinberg, seconded by Councilmember Onley, and passed with Mayor Newton, Councilmember Feinberg, and Councilmember Onley voting in favor, and Councilmember Moore and Councilmember Palakovich Carr voting against (3-2).

## **12. Review and Comment Regarding Mayor and Council Action Report**

Councilmember Moore requested that a letter be sent to the City's Boards and Commissions to solicit interest in serving on the City's Ethics Commission. Mayor Newton requested that the issue be addressed under the Old/New Business section of the agenda.

Councilmember Palakovich Carr requested that a new item be added to the Action Report regarding the Metropolitan Washington Council of Governments (COG) Climate, Energy and Environment Committee Goals. She would like for staff to provide the Mayor and Council with an update on the City's implementation of the 2013 COG Action Plan to reduce greenhouse gas emissions and to prepare for the impacts of climate change.

## **13. Review and Comment Regarding Future Agendas**

Councilmember Onley requested clarification on the proposed future agenda for Monday, February 10, 2014, agenda item # 14 (Introduction of an Ordinance to Revise Rockville City Code Chapter 24, "Water, Sewers and Sewage Disposal," Changes to Chapter 24 Article III Rates and Charges). She asked whether a public hearing was being scheduled for the item. City Attorney Daniel advised the Mayor and Council that a Public Hearing is not required but that, if two or more Councilmembers request a public hearing, one could be scheduled. Councilmember Onley stated that she would like to have a public hearing on the item. Mayor Newton stated her comments and concerns with the pace at which the item was coming forward, which may not allow enough time to receive public input on the item. City Manager Matthews provided clarification to the Mayor and Council that the agenda item did not concern the utility rates that the Mayor and Council would be considering during the FY15 Budget process. City Manager Matthews suggested that the staff present the item to the Mayor and Council and, after hearing staff's presentation, the Mayor and Council could decide whether or not a public hearing should be held. The Mayor and Council were supportive of the City Manager's recommendation.

## **14. Old/New Business**

The Mayor and Council discussed and agreed to send a letter to the Boards and Commissions requesting assistance with outreach to their Board/Commission members to identify parties that may have an interest in serving on the newly created Ethics Commission.

Councilmember Feinberg would like for those that participated in the 2012 Rockville Summit Committees be contacted as well.

City Attorney Daniel addressed the Mayor and Council regarding proposed amendments that the City received from Rockville Economic Development Incorporated (REDI) relative to its Memorandum of Understanding with the City of Rockville. The proposed language with recommended edits from the City Attorney's Office was provided to the Mayor and Council for their discussion.

Ray Whalen, Chairman of the Board for REDI, and Morgan Sullivan, Boardmember for REDI, addressed the Mayor and Council and provided clarification regarding their request for amendments to REDI's Memorandum of Understanding with the City of Rockville.

Councilmember Moore requested that REDI provide specific numbers for inclusion in the revised Memorandum of Understanding. City Attorney addressed questions from the Mayor and Council relative to the phrase "partially defunded" that was referenced in the proposed revisions.

Councilmember Moore expressed concerns regarding the short timeframe in which the Mayor and Council were being asked to make a decision on the proposed amendments to the Memorandum of Understanding.

Councilmember Moore noted that the City was being asked to make another commitment to REDI in addition to the funding already provided to the organization.

**Motion:** to convene into Executive Session pursuant to Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding the City's Memorandum of Understanding with Rockville Economic Development, Inc.

Moved by Councilmember Moore, seconded by Councilmember Feinberg, and passed unanimously.

The Mayor and Council conveyed into Executive Session at 8:33 p.m. The Mayor and Council returned to open session at 9:22 p.m.

Mayor Newton addressed Mr. Whalen, Chairman of the Board for REDI, and Mr. Sullivan, Boardmember, for REDI. She indicated that the Mayor and Council were not prepared to make a decision at this time. Mayor Newton requested that REDI get some numbers to City staff as the discussion will continue and the Mayor and Council will provide an answer as soon as possible.

## **15. Adjournment**

There being no further business, the meeting adjourned at 9:23 p.m.

**Motion:** to adjourn.

Moved by Councilmember Palakovich Carr, seconded by Councilmember Councilmember Feinberg, and passed unanimously.